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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,844	06/24/2003	Don Quy Nguyen	024-28135	9283

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EXAMINER

THOMPSON, KENNETH L

ART UNIT PAPER NUMBER

3672

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,844

Applicant(s)

NGUYEN, DON QUY

Examiner

Kenneth Thompson

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 10, 16, 20 and 21 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-19 is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 6-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 29 Dec 03
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Election of Species

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

- Species I - Figures 1-4
- Species II - Figure 5
- Species III - Figures 6 and 7.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 11 and 17 are generic.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

During a telephone conversation with James E. Bradley on 24 May 2005 a provisional election was made without traverse to prosecute the invention of Species I, claims 1-9, 11-15 and 17-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10, 16, 20 and 21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "29" and "37" have both been used to designate the excluder ring. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Helmick, U.S. 4,279,316.

Regarding claim 1, Helmick discloses a body (11), a bit leg (13), a bearing pin (18), a cone (14, a seal cavity (between 19,21) between the bearing pin and the cone, a

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seal (9) within the cavity and the seal cavity having a volume that differs when measured at one circumferential point the other circumferential points (see fig. 2; col. 3, lines 16-23).

As to claim 4, Helmick discloses the seal cavity (between 19 and 21) having a mouth (21) that is circular with an axis (23) offset from the axis (22) of the bearing pin col. 4, lines 9-21; in the loaded condition).

As to claim 5, Helmick discloses in figure 2 the radial width (distances between 19 and 21) of the seal cavity increases gradually from a minimum width point to a maximum width point 180 degrees from the minimum width point.

Allowable Subject Matter

Claims 11-19 are allowed

Claims 2, 3 and 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or suggest all the claimed subject matter including the volume or width of the cavity changes per revolution of the cone.

The prior art of record does not disclose or suggest all the claimed subject matter including an annular clearance located between the seal cavity and the outer diameter of the seal.

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The prior art of record does not disclose or suggest all the claimed subject matter including a metal seal ring.

The prior art of record does not disclose or suggest all the claimed subject matter including a groove spaced radially from a seal boss on the bit leg.

The prior art of record does not disclose or suggest all the claimed subject matter including the cavity having a seal face and a mouth with an axis offset from the axis of the bearing pin.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Thompson whose telephone number is 571 272-7037. The examiner can normally be reached on 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT

25 May 2005